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## **Ordinance on Radio and Television (RTVO)**

of 9 March 2007 (Status as of 1 March 2013)

**Please note:** this translation does not yet include the amendments of 1.1.2015

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*The Swiss Federal Council,*

based on the Federal Act of 24 March 2006<sup>1</sup> on Radio and Television (RTVA),  
*ordains:*

### **Title 1: Scope**

**Art. 1** Offerings of minor editorial importance  
(Art. 1 para. 2 RTVA)

<sup>1</sup> Offerings of minor editorial importance are offerings which can be received by fewer than 1,000 devices simultaneously in a quality corresponding to the state of the art.

<sup>2</sup> Offerings of minor editorial importance are additionally offerings which:

- a. are restricted to editorially unprocessed, free or charged-for reproduction of the following data in particular:
  1. indications of the time and environmental measurement data,
  2. still or moving weather and meteorological data,
  3. emergency numbers,
  4. references to services or events of the public administration,
  5. public transport timetables; and
- b.<sup>2</sup> which otherwise contain neither advertising nor sponsorship with the exception of advertising for own products and services.

AS 2007 787

<sup>1</sup> SR 784.40

<sup>2</sup> Amended by No I of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

## **Title 2: Broadcasting of Programme Services**

### **Chapter 1: General Provisions**

#### **Section 1: Obligation to Notify**

##### **Art. 2** Obligation to notify (Art. 3 let. a RTVA)

<sup>1</sup> Broadcasters subject to the obligation to notify must provide the Federal Office of Communications (OFCOM)<sup>3</sup> with the following information in particular:

- a. the name of the programme service and the main features of the programme service content;
- b. the name of the person responsible for editorial matters ;
- c. the domicile or registered office of the broadcaster;
- d. details which enable the public to establish quick and uncomplicated contact with the broadcaster, in particular the e-mail address and the web address;
- e. the nature and area of the technical broadcasting;
- f. the identity as well as the share of capital or voting rights of shareholders and other co-owners possessing at least one third of the capital or voting rights, as well as their holdings of at least one third in other undertakings in the media sector;
- g. the identity of board of directors and management members;
- h. the broadcaster's holdings in other undertakings of at least one third of the capital or voting rights, as well as holdings of these undertakings of at least one third in other undertakings in the media sector;
- i. programme-related cooperation with third parties;
- j. the number of employees.
- k.<sup>4</sup> the date of recording of the broadcast programme service.

<sup>2</sup> For the broadcasting of a programme service of a duration of 30 days at most, the obligation to notify is limited to the details in terms of para. 1 let. a–e.

<sup>3</sup> OFCOM may publish the notified information.

<sup>4</sup> The Federal Department of the Environment, Transport, Energy and Communications (DETEC)<sup>5</sup> regulates which changes to notifiable circumstances must be reported to OFCOM and within which period.

<sup>3</sup> Term in accordance with No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965). This amendment has been made throughout the text.

<sup>4</sup> Inserted by No I of the Ordinance of 15 June 2012, in force since 1 Aug. 2012 (AS 2012 3667).

<sup>5</sup> Term in accordance with No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965). This amendment has been made throughout the text.

**Art. 3** Correspondence address

(Art. 3 let. a RTVA)

Broadcasters subject to the obligation to notify must designate a correspondence address in Switzerland to which communications, writs and official decisions among other things may be delivered with legal force.

**Section 2: Content Principles****Art. 4** Protection of young people

(Art. 5 RTVA)

<sup>1</sup> Broadcasters of freely-receivable television programme services must acoustically announce programmes which are unsuitable for young people or identify them as such by visual means throughout their entire period of transmission.

<sup>2</sup> Broadcasters of subscription television must enable their subscribers by means of appropriate technical precautions to prevent access by minors to content which is unsuitable for young people.

**Art. 5** Minimum quotas for European works and independent productions

(Art. 7 para. 1 RTVA)

<sup>1</sup> Broadcasters of national and regional-language television programme services shall as far as practicable and with appropriate resources ensure that:

- a. at least 50 per cent of the relevant broadcasting time is reserved for Swiss or other European works;
- b. in their programme services at least 10 per cent of the relevant broadcasting time or at least 10 per cent of programme costs are reserved for Swiss or other European works made by independent producers. Appropriate space shall be reserved for works which are not older than five years.

<sup>2</sup> The relevant broadcasting time referred to in para. 1 does not include the time appointed to news, sports events, games, advertising and teletext services.

<sup>3</sup> In their annual report to OFCOM, broadcasters shall report on the extent to which these quotas have been achieved or progress has been made compared with the previous year, the reasons why this is not the case and the measures taken or envisaged to achieve these quotas or to make progress.

<sup>4</sup> If the information or the measures taken are not adequate to achieve the required quotas, the supervisory authority shall take measures in accordance with Article 89 para. 1 RTVA.

**Art. 6** Obligation to promote Swiss films

(Art. 7 para. 2 RTVA)

<sup>1</sup> The obligation to promote Swiss films and films co-produced in Switzerland and other countries applies to all regional-language and national television broadcasters which meet the following criteria:

- a. they broadcast feature films, documentary films or animation films in their Swiss programme services or foreign syndicated programme services.
- b. their annual operating expenditure is over CHF 200,000.
- c. they do not transmit any programme service with low broadcasting activity.<sup>6</sup>

<sup>2</sup> The broadcasters referred to in paragraph 1 shall report on their film promotion activities in their annual report. The Federal Office of Communications, in consultation with the Federal Office of Culture, decides on the amount of any support fee. All expenditure incurred in the reporting year for the purchase, production or co-production of Swiss films, documentaries or animated films will be allowable.

<sup>3</sup> The use of the support fee is based on Article 15 paragraphs 2 and 3 of the Film Act of 14 December 2001<sup>7</sup>.

**Art. 7**                    Adaptation for the disabled of television programmes on SRG SSR channels

(Art. 7 para. 3 and 24 para. 3 RTVA)

<sup>1</sup> The Swiss Broadcasting Corporation (SRG SSR) is obliged gradually to increase the proportion of subtitled television programmes in its editorial programme service to one third of the total broadcasting time in each linguistic region. This obligation also applies to television broadcasters which broadcast their programme service in accordance with Article 25 para. 4 RTVA in cooperation with SRG SSR.

<sup>2</sup> SRG SSR must broadcast every day in each official language at least one information programme in sign language.

<sup>3</sup> SRG SSR must broadcast at least 24 television programmes with an audio description for the visually impaired every year in each linguistic region.<sup>8</sup>

<sup>4</sup> The range of content to be subtitled and the scope of the other services to be provided by SRG SSR, as well as the schedule for implementation, are fixed in an agreement between SRG SSR and the disabled persons associations concerned. If no agreement is reached within six months of the commencement of the RTVA or if the agreement is repealed, DETEC shall fix the services to be provided by SRG SSR.

<sup>5</sup> Every three years at least, OFCOM shall examine the possibility of increasing the proportion of television programmes adapted for the disabled. If the regulations in force no longer appear to be appropriate, DETEC shall request the Federal Council to amend them.

**Art. 8**                    Adaptation for the disabled by other television broadcasters

(Art. 7 para. 3 RTVA)

<sup>1</sup> Television broadcasters with a national or regional-language programme service which do not broadcast their programme service in cooperation with SRG SSR must

<sup>6</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>7</sup> SR 443.1

<sup>8</sup> Amended by No I of the Ordinance of 15 June 2012, in force since 1 Aug. 2012 (AS 2012 3667).

provide the visually impaired or hard of hearing with at least one weekly programme adapted for the disabled, during prime time.

<sup>2</sup> OFCOM exempts broadcasters from the obligation relating to editing to ensure disabled access if their annual operating expenditure is under CHF 200,000, if their programme service is not suitable for disabled-access editing or if they transmit a programme service with low broadcasting activity.<sup>9</sup>

**Art. 9<sup>10</sup>** Broadcasting obligations

(Art. 8 para. 1–3 RTVA)

<sup>1</sup> SRG SSR and all broadcasters with a licence based on Article 38 paragraph 1 letter a or 43 paragraph 1 letter a RTVA must broadcast the following information:

- a. urgent police announcements;
- b. the following announcements in terms of the Alarm Ordinance of 18 August 2010<sup>11</sup> (AlarmO):
  1. official alarms and related instructions on conduct, as well as the all-clear announcements and the relaxation or lifting of instructions on conduct,
  2. warnings issued by the authorities of natural dangers and earthquake reports of levels 4 and 5 as well as related all-clear announcements,
  3. announcements correcting false alarms,
  4. warnings relating to siren tests.

<sup>2</sup> The broadcasts are made on the order:

- a. of the competent cantonal authority in the case of events which the cantons are responsible for dealing with;
- b. the competent federal authorities, and in particular the Federal Chancellery and the National Emergency Operations Centre (NEOC), in the case of events which the Confederation is responsible for dealing with;
- c. the specialist federal agencies responsible for warnings and earthquake reports in accordance with the AlarmO in the case of natural dangers.

<sup>3</sup> The authority issuing the order under paragraph 1 shall ensure that broadcasters and telecommunications service providers are informed in full and in good time.

<sup>4</sup> The broadcast is made:

- a. in the coverage area that could be affected by the danger;
- b. free of charge and with information on the source;
- c. immediately; in the case of warnings issued by the authorities of natural dangers and earthquake reports they shall be made at the first opportunity or

<sup>9</sup> Inserted by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>10</sup> Amended by Art. 23 Abs. 2 of the Alarm Ordinance of 18 Aug. 2010, in force since 1 Jan. 2011 (AS 2010 5179).

<sup>11</sup> SR 520.12

as quickly as possible; in the case of siren tests, they shall be made on several occasions before the test is carried out;

- d. in principle without modification; storm warnings may be edited provided the essential content remains the same.

<sup>5</sup> DETEC shall regulate the details of the broadcasts.

**Art. 10** Information in crisis situations

(Art. 8 para. 4 RTVA)

<sup>1</sup> If direct access to the Confederation's official sources of information is no longer possible to the same extent for all broadcasters in a crisis situation because of technical circumstances or limited space, the first radio programme services of the SRG SSR shall take precedence.

<sup>2</sup> The Federal Chancellery shall guarantee that non-accredited broadcasters will be able to access the SRG SSR's corresponding electronic raw material immediately and free of charge.

**Section 3: Advertising and Sponsorship**

**Art. 11** Definitions

(Art. 10 para. 3 and Art. 2 let. k and o RTVA)

<sup>1</sup> The following do not qualify as advertising:

- a. references to the programme service in which they are broadcast;
- b. references to specific programmes in other programme services by the same undertaking which are directly related in terms of content to the programme service in which they are broadcast;
- c. references to ancillary products broadcast free of charge which are directly related in terms of content to the programme service in which they are broadcast;
- d. brief appeals for donations to non-profit organisations where any payment or similar consideration given to the broadcaster covers no more than the production costs.

<sup>2</sup> Surreptitious advertising is the representation, of an advertising nature, of goods, services or ideas in editorial programmes, in particular if it is done in return for payment.

<sup>3</sup> The coproduction of a programme by natural or legal persons who are engaged in the radio or television sector or in the production of audiovisual works is not considered to be sponsorship of a programme.

**Art. 12** Identifiability of advertising

(Art. 9 RTVA)

<sup>1</sup> Advertising must be separated from editorial programmes by a special acoustic or optical identification signal. In television, the term “advertising” in the relevant national language must be used when this is done.

<sup>1bis</sup> If an advertising spot up to 10 seconds in length is broadcast on television separately in accordance with Article 18 paragraph 1, a discrimination signal may be dispensed with if the advertising spot is made continuously and clearly identifiable by the display of the term “Advertisement” in the relevant national language on the screen.<sup>12</sup>

<sup>2</sup> Self-contained advertising transmissions on television which last longer than 60 seconds must be clearly and recognisably identified throughout by the display of the term “Advertisement” in the relevant national language on the screen.<sup>13</sup>

<sup>3</sup> Self-contained advertisements on the radio which are not clearly identifiable as such shall not last longer than 60 seconds.

<sup>4</sup> In the advertising of local or regional radio broadcasters whose coverage area contains fewer than 150,000 inhabitants of 15 years of age and above, editorial employees may participate provided they do not present news or current affairs programmes. The same applies to local or regional television broadcasters whose coverage area contains fewer than 250,000 inhabitants who are 15 years of age or over.

**Art. 13** Split-screen advertising

(Art. 9 para. 1 and 11 para. 1 RTVA)

<sup>1</sup> Advertising may be inserted in part of the screen during editorial programmes if:

- a. the area used for advertising constitutes a unit bordering the edge of the screen, does not visually split the editorial content and does not cover more than one third of the screen area;
- b. the advertising is separated by clearly visible borders and a different visual design from the editorial programme and is continuously identified by the clearly legible caption “Advertising” in the relevant national language;
- c. the advertising is restricted to a visual representation.

<sup>2</sup> Split-screen advertising is not permitted in news or current affairs programmes, children’s programmes or during the broadcasting of religious services.

<sup>3</sup> Split-screen advertising is counted towards the advertising time as defined in Article 19.

<sup>12</sup> Inserted by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>13</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

**Art. 14** Interactive advertising

(Art. 9 para. 1 RTVA)

<sup>1</sup> If the viewer has the possibility of switching from the programme to an interactive advertising environment by activating an on-screen button, the following conditions must be met:

- a. after activation, the viewer must be informed that he or she is leaving the television programme and entering a commercial environment.
- b. after the information according to let. a, the viewer must confirm entry into the commercial environment.
- c. the screen immediately following the confirmation must not contain advertising for products or services for which advertising is banned in accordance with Article 10 paragraphs 1 and 2 RTVA.

<sup>2</sup> If the button which leads to the interactive advertising environment is inserted into the editorial part of the programme, the provisions of Article 13 apply to the inserted button.

**Art. 15** Virtual advertising

(Art. 9 para. 1 RTVA)

<sup>1</sup> Virtual advertising is the modification of the transmitted signal to replace advertising areas at the site of the recording by others.

<sup>2</sup> Virtual advertising is permitted under the following conditions:

- a. the advertising surface to be replaced is associated with a public event organised by a third party.
- b. it replaces an existing immobile advertising surface at the site of the recording which was erected by third parties especially for this event.
- c. the advertising visible on-screen may use moving images only if the replaced advertising surface already contained moving images.
- d. at the start and end of the programme concerned, reference must be made to the fact that the programme contains virtual advertising.

<sup>3</sup> Virtual advertising is not permitted in news or current affairs programmes, children's programmes or during the broadcasting of religious services.

<sup>4</sup> Articles 9 and 11 RTVA are not applicable.

**Art. 16** Advertising for alcoholic beverages

(Art. 10 para. 1 let. b and c RTVA)

<sup>1</sup> Advertising for alcoholic beverages must comply with the following rules:

- a. advertising for alcoholic beverages must not be addressed specifically to minors.
- b. no-one associated with the consumption of alcoholic beverages should appear to be a minor.



- c. the consumption of alcoholic beverages may not be linked to physical performance or driving vehicles.
- d. it must not be claimed that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of solving personal problems.
- e. advertising for alcoholic beverages must not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light.
- f. the alcohol content of beverages must not be stressed.

<sup>2</sup> No advertising for alcoholic beverages may be broadcast before, during or after programmes which are aimed at children or young people.

<sup>3</sup> Offers for the sale of alcoholic beverages are not permitted.

<sup>4</sup> In programmes which are subject to a ban on advertising for alcoholic beverages, advertising for an alcohol-free product must not generate any advertising effect for beverages which contain alcohol. In particular, the scenario, references to the product and the manufacturer, design elements, backgrounds and persons must differ from those which are used in commercial communication for alcoholic beverages from the same manufacturer. The advertised product must be available on the market.

#### **Art. 17** Political advertising

(Art. 10 para. 1 let. d RTVA)

<sup>1</sup> Any group which takes part in popular elections is considered to be a political party.

<sup>2</sup> Political offices are offices to which persons are appointed by popular elections.

<sup>3</sup> The prohibition on advertising relating to matters that are the subject of a popular vote applies from the moment of publication of the date of the vote by the competent authority.

#### **Art. 18<sup>14</sup>** Insertion of advertising

(Art. 11 para. 1 RTVA)

<sup>1</sup> Advertising spots may be transmitted individually between programmes and during the transmission of sporting events.

<sup>2</sup> The following transmissions may be interrupted by advertising once for each programmed period of at least 30 minutes:

- a. cinema feature films;
- b. television films, with the exception of series, serials and documentary films;
- c. news programmes and programmes relating to current political events.

<sup>3</sup> Programmes for children and religious services programmes must not be interrupted by advertising.

<sup>14</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>4</sup> No restrictions apply to any other programmes, in particular series, serials and documentary films.

<sup>5</sup> In the case of the transmission of events which include breaks, in addition to paragraph 2 the insertion of advertising during the breaks is permitted.

<sup>6</sup> For programmes which consist of independent parts, the insertion of advertising is permitted only between these parts.

<sup>7</sup> For non-licensed radio programme services and for non-licensed television programme services which cannot be received abroad, no restrictions apply to the insertion of advertising with the exception of the restriction mentioned in paragraph 3.

**Art. 19<sup>15</sup>**      Duration of advertising

(Art. 11 Abs. 2 RTVA)

<sup>1</sup> Advertising spots may take up a maximum of 15 percent of the daily transmission time and a maximum of twelve minutes within one natural complete hour.

<sup>2</sup> For non-licensed radio programme services and for non-licensed television programme services which cannot be received abroad, no restrictions apply to the duration of advertising.

**Art. 20<sup>16</sup>**      Mention of the sponsor

(Art. 12 para. 2 and 3, and 13 para. 4 RTVA)

<sup>1</sup> Sponsored programmes must be identified as such. In particular, the sponsor's name, company logo or another symbol, products and services may be used for this purpose.

<sup>2</sup> Each mention of the sponsor must establish a clear relationship between the sponsor and the programme.

<sup>3</sup> The mention of the sponsor must not directly encourage the conclusion of transactions relating to goods or services, in particular by means of sales promotion information relating to these goods or services.

<sup>4</sup> During the transmission of a television programme, the sponsorship relationship may be briefly mentioned again (insert). One insert per sponsor is permitted every ten minutes of transmission time. Inserts are not permitted in children's programmes.

<sup>15</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>16</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

**Art. 21<sup>17</sup>** Product placement

(Art. 9 para. 1, 12 para. 3 and 13 para. 4 RTVA)

<sup>1</sup> Goods and services which a sponsor makes available may be integrated into the programme (product placement). Product placement is subject to the provisions relating to sponsorship unless this Article provides otherwise.

<sup>2</sup> Product placement is not permitted in children's programmes, documentary films and religious broadcasts, unless the sponsor merely provides goods or services of low value free of charge, in particular as production aids or prizes, and does not provide any additional remuneration.

<sup>3</sup> Clear reference must be made to product placement at the start and end of the broadcast and after each advertising break. A single reference suffices for product placements, production aids and prizes of a low value of up to CHF 5000.

<sup>4</sup> The following cinema feature films, television films and documentary films are exempted from the identification obligation according to paragraph 3:

- a. those not produced or commissioned by the broadcaster itself or by a company controlled by the broadcaster;
- b. those commissioned by the broadcaster from independent film producers and co-financed by the broadcaster below the level of 40 percent (co-productions).

**Art. 22** Additional restrictions on advertising and sponsorship  
in SRG SSR programme services

(Art. 14 para. 1 and 3 RTVA)

<sup>1</sup> In SRG SSR's television programme services, the following programmes may be interrupted by advertising:

- a. news and current affairs programmes: once for each programmed period of at least 90 minutes;
- b. other programmes:
  1. between 18:00 and 23:00: once for each programmed period of at least 90 minutes,
  2. at other periods of the day: once for each programmed period of at least 30 minutes.<sup>18</sup>

<sup>1bis</sup> Children's programmes and broadcasts of religious services may not be interrupted by advertising.<sup>19</sup>

<sup>2</sup> In SRG SSR's television programme services:

<sup>17</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>18</sup> Amended by No I of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

<sup>19</sup> Inserted by No I of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

- a.<sup>20</sup> advertising spots and longer forms of advertising may together amount to a maximum of 15 per cent of the daily transmission time;
  - b. between 18:00 and 23:00, advertising spots and longer forms of advertising may together amount to a maximum of 12 minutes within one full clock hour.
  - c. at other periods of the day, advertising spots may amount to a maximum of 12 minutes within one full clock hour.
- <sup>3</sup> Split-screen advertising and virtual advertising are not permitted except during the broadcasting of sports events.
- <sup>4</sup> The transmission of sales programmes is not permitted.
- <sup>5</sup> In its radio programme services, SRG SSR may broadcast self-advertising in so far as this serves predominantly to build audience loyalty.
- <sup>6</sup> References to events for which SRG SSR has entered into a media partnership may be broadcast as self-advertising if they serve predominantly to build audience loyalty and the media partnership was not concluded for the purpose of financing the programme service. A media partnership exists when cooperation exists between the broadcaster and the organiser of a public event and the broadcaster undertakes to refer to the event in the programme service and is compensated with advantages at the location and similar services.
- <sup>7</sup> The mention of sponsors in SRG radio programme services may only include elements which serve to identify the sponsor.<sup>21</sup>

**Art. 23** Advertising and sponsorship in the further SRG SSR editorial offering

(Art. 14 para. 3 RTVA)

In the further editorial offering of the SRG SSR which is necessary in addition to radio and television programme services to fulfil the programme mandate and which is financed from reception fees (Art. 25 para. 3 let. b RTVA), advertising and sponsorship are not permitted, with the following exceptions:

- a. sponsored programmes transmitted in the programme service which are also available on demand must be provided with the corresponding mention of the sponsor;
- b. programmes that are available on demand and which include split-screen advertising or virtual advertising may be provided unmodified;
- c. advertising and sponsorship are permitted in the teletext service. The advertising and sponsorship provisions of the RTVA and this Ordinance which apply to SRG SSR's programme services are applicable, *mutatis mutandis*; details are set out in the licence;

<sup>20</sup> Amended by No 1 of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

<sup>21</sup> Inserted by No 1 of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

- d. in the licence, other exceptions may be specified for offerings which arise in cooperation with non-profit-making third parties, as well as with reference to self-advertising.

#### **Section 4: Obligations relating to the Broadcasting of Programme Services**

**Art. 24** Obligation to notify changes in holdings in the broadcaster  
(Art. 16 RTVA)

<sup>1</sup> Any transfer of share capital, registered capital, cooperative capital, or the voting rights of a licensed broadcaster of at least 5 per cent or for a non-licensed broadcaster at least one third is subject to the obligation to notify.

<sup>2</sup> Moreover, any transfer as a result of which economic control of the broadcaster changes is subject to the obligation to notify.

<sup>3</sup> Notification must take place within one month.

<sup>4</sup> Non-licensed broadcasters with annual operating costs of CHF 200,000 maximum are exempt from the obligation to notify.

**Art. 25** Obligation to notify substantial holdings of the broadcaster in other enterprises  
(Art. 16 RTVA)

<sup>1</sup> Participation in a different enterprise is subject to the obligation to notify if a licensed broadcaster owns at least 20 per cent, or in the case of a non-licensed broadcaster at least one third, of the share capital, registered capital, cooperative capital, or the voting rights of an enterprise.

<sup>2</sup> All changes in the holdings which are subject to the obligation to notify in accordance with para. 1 must also be notified.

<sup>3</sup> Notification must take place within one month.

<sup>4</sup> Non-licensed broadcasters with annual operating costs of CHF 200,000 maximum are exempt from the obligation to notify in this Article.

**Art. 26** Obligation to provide information  
(Art. 17 para. 2 let. a RTVA)

The obligation to provide information in accordance with Article 17 paragraph 2 letter a RTVA also applies to legal and natural persons who are active in the radio and television market or in a related market, and

- a. at least 20 per cent of their share capital, registered capital, cooperative capital or the voting rights is owned by a licensed broadcaster or at least one third of their share capital, registered capital, cooperative capital or the voting rights is owned by non-licensed broadcaster; or

- b. who own at least 20 per cent of the share capital, registered capital, cooperative capital or the voting rights of a licensed broadcaster or at least one third of a non-licensed broadcaster.

**Art. 27** Broadcasters' annual report and annual accounts  
(Art. 18 RTVA)

<sup>1</sup> All licensed broadcasters and other broadcasters with operating costs in excess of CHF 200,000 must submit an annual report.

<sup>2</sup> In particular, the annual report of a licensed broadcaster must include the following details:

- a. the name and place of residence or domicile of the broadcaster;
- b. the identity of board of directors and management members;
- c. the identity as well as the share of capital or voting rights of shareholders and other co-owners possessing at least 5 per cent of the capital or voting rights of the broadcaster, as well as their holdings of at least 20 per cent in other undertakings in the media sector;
- d. the broadcaster's holdings in other undertakings of at least 20 per cent of the capital or voting rights, as well as holdings of these undertakings of at least 20 per cent in other undertakings in the media sector;
- e. the fulfilment of the requirements in Article 7 RTVA and of the legal and licensing obligations and conditions, in particular the fulfilment of the performance mandate;
- f. the programme service content;
- g. the number of employees;
- h. cooperation with third parties on programme services;
- i. the technical means and the area of broadcasting;
- j. the development of the business;
- k. the total expenditure as well as partial expenditure in the areas of personnel, programming, technology and administration;
- l. total revenue as well as partial revenues in the areas of advertising and sponsorship.

<sup>3</sup> The annual report of a non-licensed broadcaster must include the following details in particular:

- a. the details in paragraph 2 letters a, b and f–l;
- b. the identity as well as the share of capital or voting rights of shareholders and other co-owners possessing at least one third of the capital or voting rights of the broadcaster, as well as their holdings of at least one third in other undertakings in the media sector;

- c. the broadcaster's holdings in other undertakings of at least one third of the capital or voting rights, as well as holdings of these undertakings of at least one third in other undertakings in the media sector;
- d. the fulfilment of the requirements in Article 7 RTVA and of the legal obligations and conditions.

<sup>4</sup> OFCOM may publish the information from the annual reports which are explicitly mentioned in paras. 2 and 3.

<sup>5</sup> All licensed broadcasters must submit annual accounts comprising a profit and loss account, balance sheet and annex, as well as the auditor's report. DETEC may issue regulations on accounting and on separate accounting in accordance with Article 41 paragraph 2 RTVA.<sup>22</sup>

<sup>6</sup> The balance sheet and the profit and loss account must be prepared according to a special accounting plan.<sup>23</sup>

<sup>7</sup> The annual report and annual accounts must be submitted to OFCOM by the end of April of the following year.

#### **Art. 28** Recording obligation

(Art. 20 RTVA)

<sup>1</sup> Broadcasters with a music programme service without advertising and sponsorship are exempt from the recording obligation, if the programme service does not contain any spoken information. It must be possible to reconstruct the programme service by means of playlists.

<sup>2</sup> Broadcasters under paragraph 1 are obliged to provide the titles of the music broadcast at the request of the supervisory authority.

### **Section 5: Broadcasting Statistics**

#### **Art. 29** Organisation

(Art. 19 RTVA)

OFCEM shall ensure the collection and processing of data and the other statistical work that is necessary to produce the statistics in accordance with Article 19 paragraph 1 RTVA (broadcasting statistics). It coordinates the work in application of the Ordinance of 30 June 1993<sup>24</sup> on the Organisation of Federal Statistics with the Federal Statistical Office and cooperates with the latter.

<sup>22</sup> Amended by No I of the Ordinance of 15 June 2012, in force since 1 Aug. 2012 (AS 2012 3667).

<sup>23</sup> Amended by No I of the Ordinance of 15 June 2012, in force since 1 Aug. 2012 (AS 2012 3667).

<sup>24</sup> SR 431.011

**Art. 30** Collection of data  
(Art. 19 RTVA)

<sup>1</sup> For the production of the broadcasting statistics, OFCOM uses the data obtained in implementation of the radio and television legislation, in particular the information related to the obligation to notify and in the annual reports in accordance with Article 27 paragraphs 2 and 3.

<sup>2</sup> OFCOM may:

- a. collect any other data necessary for the broadcasting statistics from broadcasters of Swiss programme services;
- b. use the data from other authorities and organisations obtained in the application of federal law.

<sup>3</sup> Broadcasters shall provide OFCOM free of charge with the information necessary for the production of the broadcasting statistics in the desired form.

**Art. 31** Use of data  
(Art. 19 RTVA)

<sup>1</sup> Data acquired solely for statistical purposes may not be used for other purposes unless there is a legal basis for this or the broadcaster concerned has given its consent in writing.

<sup>2</sup> In order to guarantee data protection and confidentiality of statistics, OFCOM shall take the necessary technical and organisational measures against improper processing of the data it uses.

<sup>3</sup> OFCOM may forward the data in paragraph 1 for statistical and scientific purposes if it is guaranteed that the recipients will comply with data protection.

**Art. 32** Publication of statistical results  
(Art. 19 RTVA)

<sup>1</sup> OFCOM publishes the statistical results that are of public interest. It may make them accessible online.

<sup>2</sup> The results in terms of paragraph 1 must be in a form that excludes the identification of any natural or legal person unless the processed data has been made available to the public by OFCOM or by the person concerned or if the person consents to publication.

<sup>3</sup> The use or reproduction of statistical results in terms of paragraph 1 is permitted if the source is quoted. OFCOM may provide for exceptions.



## **Section 6: Legal Deposit**

### **Art. 33**

(Art. 21 RTVA)

OFCOM may conclude service agreements with organisations which perform tasks related to the archiving of programmes and the preservation of playback equipment in accordance with Article 21 paragraphs 2 and 4 RTVA. The service agreements shall be put out to public tender.

## **Section 7: Licence Fee**

### **Art. 34**

Collection of the licence fee

(Art. 15 and 22 RTVA)

<sup>1</sup> All revenue received from advertising and sponsorship in the programme service of a licensed broadcaster by the broadcaster itself or by third parties is deemed to be gross revenue from advertising and sponsorship.

<sup>2</sup> For each calendar year, the licence fee shall be 0.5 per cent of gross revenue in excess of CHF 500,000. If the fee is chargeable for only part of a year, the exemption amount is reduced proportionately.

<sup>3</sup> The licence fee is charged on the basis of the gross revenue achieved in the previous calendar year.

<sup>4</sup> In the broadcaster's first two years of operation, the calculation of the licence fee is based on the gross revenue budgeted for. If, on examination of the actual gross revenue achieved in these years, the amount of the fee proves to be too high or too low, then a reimbursement will be made or an additional amount will be charged.

<sup>5</sup> When the licence expires, the licence fee for the year of cessation of transmission operations and the preceding calendar year is charged on the basis of the gross revenue achieved in these years. If the fee charged up to cessation of operations proves to be too high or too low, then a reimbursement will be made or an additional amount will be charged.

<sup>6</sup> OFCOM shall verify the reported gross revenues and issue the decision concerning the fee. OFCOM may commission external experts to carry out this verification.

## Chapter 2: Service Agreement on the Swiss Broadcasting Corporation (SRG SSR) Offering for Foreign Countries<sup>25</sup>

### Art. 35

(Art. 28 para. 1 RTVA)

The agreement between the Federal Council and SRG SSR on the editorial offering for foreign countries is concluded in each case in the form of a four-year service agreement.

## Chapter 3: Other Broadcasters with a Mandate

### Art. 36 Complementary non-profit-oriented radio programme services

(Art. 38 para. 1 let. b RTVA)

<sup>1</sup> A complementary non-profit-oriented radio programme service must differentiate itself thematically, culturally and musically from other licensed radio programme services that can be received in the same coverage area. In particular, a non-profit-oriented programme service must take account of the linguistic and cultural minorities in the coverage area.

<sup>2</sup> In a non-profit-oriented radio programme service, the broadcasting of advertising is not permitted, with the exception of self-advertising, which predominantly serves to build audience loyalty, including references to media partnerships as defined in Article 22 paragraph 6. The licence may provide for the broadcasting of advertising for broadcasters which make a special contribution to the training of media workers in a coverage area with fewer than 75,000 inhabitants aged 15 or more.

### Art. 37<sup>26</sup> Broadcasting programme services outside the coverage area<sup>27</sup>

(Art. 38 para. 5 RTVA)

<sup>1</sup> Radio programme services which are transmitted using wireless terrestrial technology by broadcasters with a fee-splitting licence may also be transmitted outside the coverage area as follows:

- a. using digital wireless-terrestrial technology;
- b. by wire;
- c. via satellite.

<sup>2</sup> Television programme services from broadcasters with a fee-splitting licence may also be transmitted outside the coverage area by wire using digital technology.<sup>28</sup>

<sup>25</sup> Amended by No I of the Ordinance of 15 June 2012, in force since 1 Aug. 2012 (AS 2012 3667).

<sup>26</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>27</sup> Amended by No I of the Ordinance of 23 Jan., in force since 1 March 2013 (AS 2013 567).

**Art. 38<sup>29</sup>** Coverage areas  
(Art. 39 para. 1 RTVA)

The number and extent of the coverage areas in which licences are awarded, as well as the technical means of broadcasting, is stipulated by the Federal Council:

- a. in Annex 1 for radio broadcasters,
- b. in Annex 2 for television broadcasters.

**Art. 39** Determining the share of fees  
(Art. 40 RTVA)

<sup>1</sup> The annual fee-splitting element for television broadcasters and broadcasters of complementary non-profit radio programme services shall correspond to a maximum of 70 percent of their operating costs. For other radio broadcasters, this amount may be a maximum of 50 percent.<sup>30</sup>

<sup>2</sup> DETEC generally reviews the share of the fees of broadcasters after five years and redefines them if necessary.

**Art. 40** Administration of shares of the fees by the Confederation  
(Art. 40 RTVA)

<sup>1</sup> The balance of the shares of the fees received but not disbursed by the Confederation in accordance with Article 40 paragraph 1 RTVA is shown in an account on the Confederation's balance sheet.

<sup>2</sup> The payment of interest is governed by Article 70 paragraph 2 of the Financial Budget Ordinance of 5 April 2006<sup>31</sup>.

<sup>3</sup> OFCOM publishes the revenue and the manner of use of the fee shares in accordance with paragraph 1.

<sup>4</sup> The Federal Audit Office carries out financial supervision in accordance with the Federal Audit Office Act of 28 June 1967<sup>32</sup>.

**Art. 41** Obligations of the licensee  
(Art. 41 para. 1 RTVA)

<sup>1</sup> Broadcasters with a fee-splitting licence must produce:

- a. rules of procedure which show the allocation of tasks and responsibilities;
- b. an editorial statute; and
- c. a mission statement which describes the measures taken to fulfil the performance mandate.

<sup>28</sup> Inserted by No I of the Ordinance of 23 Jan., in force since 1 March 2013 (AS 2013 567).

<sup>29</sup> Amended by No 1 of the Ordinance of 4 July 2007 (AS 2007 3555)

<sup>30</sup> Amended by No I of the Ordinance of 15 June 2012, in force since 1 Aug. 2012 (AS 2012 3667).

<sup>31</sup> SR 611.01

<sup>32</sup> SR 614.0

<sup>2</sup> In the licence, DETEC may lay down other obligations which serve to ensure diversity of opinion and offerings, the safeguarding of editorial independence or the fulfilment of the performance mandate. In particular, it may require the establishment of an advisory programme service committee or, in areas with only one broadcaster with a fee-splitting licence, a representative parent organisation.

<sup>3</sup> In the licence, DETEC may prohibit the broadcasting of specific types of programme which are contrary to the fulfilment of the performance mandate.

**Art. 42** Licensee's programme production

(Art. 44 para. 1 let. a RTVA)

The programmes broadcast during the prime time of a broadcaster with a performance mandate must as a rule be predominantly produced within the coverage area.

**Art. 43** Licensing procedure

(Art. 45 para. 1 RTVA)

<sup>1</sup> OFCOM carries out the tender procedures.

<sup>2</sup> The public invitation to tender for a licence must include at least:

- a. the extent of the coverage area and the technical means of broadcasting;
- b. a description of the performance mandate;
- c. in the case of licences in accordance with Article 38 RTVA: the amount of the annual share of the fees and its maximum percentage in relation to the broadcaster's operating costs;
- d. the term of the licence;
- e. the criteria for the award.

<sup>3</sup> The candidate must submit all information necessary for the assessment of the tender. If the tender is incomplete or includes insufficient information, OFCOM may after allowing an additional period abandon processing of the tender.

<sup>4</sup> OFCOM shall forward all the documentation relevant to the evaluation of the tender to the interested parties. The candidate may claim an overriding private interest and require that specific information be excluded from the forwarding process. After the procedure, the candidate has an opportunity to comment on the statements of the interested parties.

<sup>5</sup> If extraordinary changes occur between the publication of the invitation to tender and the award of the licence, the licensing authority may adapt, suspend or cancel the procedure.

**Art. 44<sup>33</sup>** Short-term licences

(Art. 45 para. 2 RTVA)

<sup>1</sup> OFCOM may award licences for the broadcasting of short-term local or regional programme services which are transmitted using wireless terrestrial technology. A programme service may be broadcast on a maximum of 30 days within a maximum period of 60 days.

<sup>2</sup> An organiser receives a maximum of one such licence per calendar year.

<sup>3</sup> Licences for short-term programme services are awarded on application without invitation to tender if it is expected that there are no more interested broadcasters than there are available frequencies.

<sup>4</sup> Such licences may in particular be awarded on the occasion of an important event in the coverage area, to support educational or training activity or within the framework of youth work.

**Title 3:  
Transmission and Technical Processing of Programme Services****Chapter 1: General Provisions****Art. 45** Adequate broadcast quality

(Art. 55 para. 1 and 59 para. 3 RTVA)

<sup>1</sup> Access-entitled programme services and coupled services which are subject to a broadcasting obligation in accordance with Article 46 of this Ordinance must be broadcast without delay, unchanged and in full.

<sup>2</sup> DETEC regulates the technical requirements for the adequate broadcast quality of access-entitled programme services and coupled services subject to a broadcasting obligation via wireless terrestrial networks (Art. 55 para. 1 RTVA) and by wire (Art. 59 para. 3 RTVA). In doing so, it shall take account of international standards and recommendations. Depending on the type of programme service and technical means of broadcasting, it may provide for different quality levels.

**Art. 46** Obligation to broadcast coupled services

(Art. 55 para. 3, 59 para. 6 and 60 para. 4 RTVA)

<sup>1</sup> If a telecommunications service provider broadcasts an access-entitled programme service, the following coupled services provided by the broadcaster must also be broadcast:

- a. narrowband data transmission in text and image;
- b. multiple sound channels;
- c. control signal for the analogue or digital recording option;

<sup>33</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

- d. services for the sensory disabled as defined in Article 7 paragraph 3 and 24 paragraph 3 RTVA;
- e. additional information for radio accompanying the programme service;
- f. Dolby Digital;
- g. information for the electronic programme guide.

<sup>2</sup> If a telecommunications service provider broadcasts a non access-entitled programme service, the coupled services for the people with sensory disabilities as defined in Article 7 paragraph 3 and 24 paragraph 3 RTVA must also be broadcast.

<sup>3</sup> DETEC may issue technical regulations and exempt certain technologies from the broadcasting obligation for coupled services.

## **Chapter 2: Wireless Terrestrial Broadcasting of Programme Services**

### **Section 1: Use of Radio Frequencies**

**Art. 47** Use of radio frequencies for the broadcasting of radio and television programme services

(Art. 54 para. 4 RTVA and Art. 24 para. 1bis TCA)

<sup>1</sup> The Federal Council shall issue directives for the use of radio frequencies which are intended entirely or in part for the broadcasting of radio and television programme services in accordance with the national frequency allocation plan (Art. 25 TCA<sup>34</sup>), and for the award of radiocommunication licences for such frequencies.

<sup>2</sup> The Federal Communications Commission and interested parties shall be consulted before the directives are issued.

<sup>3</sup> Radiocommunication licences for the utilisation of frequencies in accordance with paragraph 1 may be put out to public tender or awarded only when, based on the directives in accordance with paragraph 1, DETEC has laid down the details of the specific use of the frequencies.

**Art. 48** Cost-based compensation for broadcasting

(Art. 55 para. 2 RTVA)

<sup>1</sup> Chargeable costs for the calculation of the cost-based compensation in accordance with Article 55 paragraph 2 RTVA are the telecommunications service provider's costs that are in a causal relationship with the broadcasting of the programme service concerned (relevant costs). These include:

- a. the additional costs for the parts of the installation used by the broadcaster; and
- b. a proportional element of the joint costs and overheads.

<sup>34</sup> Telecommunications Act of 30 April 1997 (SR **784.10**)

<sup>2</sup> The costs in accordance with paragraph 1 must be determined according to the following principles:

- a. the costs correspond to the expenditure and investments of an efficient provider.
- b. the installation is valued using book values.
- c. the amortisation period takes account of the economic life of the installation.
- d. the data used for the calculation must be transparent and must come from reliable sources.
- e. interest on the capital employed is charged in accordance with conditions which are customary for the sector.

<sup>3</sup> If a telecommunications service provider broadcasts an access-entitled programme service, it shall keep this activity separate in its accounting system from all other activities and shall bill the broadcaster separately for the costs of broadcasting the programme service. The telecommunications service provider shall carry out the accounting in accordance with the recognised principles of best practice.

## **Section 2:**

### **Support for the Broadcasting of Radio Programme Services**

#### **Art. 49**

(Art. 57 RTVA)

<sup>1</sup> A contribution in accordance with Article 57 paragraph 1 RTVA shall be paid to broadcasters of radio programme services with a fee-splitting licence whose annual operating costs for broadcasting the programme service and feeding the transmission signal are extraordinarily high in relation to the number of persons covered.

<sup>2</sup> DETEC shall determine the level of cost per person covered from which a broadcaster has a claim to a contribution and which services are chargeable as costs.

<sup>3</sup> The available credit is split between broadcasters entitled to a contribution in relation to the cost per person covered. The basis for the calculation is the previous year's operating costs for broadcasting and the signal feed.<sup>35</sup>

<sup>3bis</sup> A contribution may amount to a maximum of one quarter of these operating costs. If the entire credit is not exhausted because of this restriction, the remaining sum is split according to the principle in paragraph 3 between those broadcasters entitled to a contribution for whom less than a quarter of their operating costs have been covered.<sup>36</sup>

<sup>4</sup> If a broadcaster is entitled to a contribution, OFCOM shall determine this each year in a decision. If the broadcaster does not provide the necessary information as

<sup>35</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>36</sup> Inserted by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

part of the annual report in due time (Art. 27 paragraph 7) or provides incomplete information so that the information cannot be taken into account in the calculation of contributions in accordance with para. 3, the broadcaster has no claim to a contribution for the year in question.

<sup>5</sup> In a broadcaster's first two years of operation, the basis for calculation is its budgeted expenditure for the contribution year, rounded up to a full year. If a contribution paid proves to be too high or too low on the basis of the actual costs, then a reimbursement will be made or an additional amount will be paid within the framework of the available credits.

### Section 3: Investment Contributions for New Technologies

#### Art. 50 Eligible transmission technologies<sup>37</sup> (Art. 58 RTVA)

<sup>1</sup> Investment contributions for new technologies in accordance with Article 58 RTVA may be arranged for broadcasters which, within the framework of their licence in accordance with Article 38, 43 or 107 RTVA, broadcast or arrange to broadcast a radio or television programme service using a new wireless terrestrial means of transmission which is deemed to be of major importance for the future broadcasting of programme services.

<sup>2</sup> DETEC shall designate the means of transmission that are worthy of support under paragraph 1 and shall determine the period of support.

<sup>3</sup> DETEC shall specify in advance the time from which adequate financing is deemed to exist for a new broadcasting technology in a coverage area and the broadcaster concerned loses its claim to a contribution. When determining the limits, DETEC shall take account in particular of the availability of receivers in the coverage area, the size of the coverage area, the investment requirement for the broadcasting technology and the type of financing of the programme service.

<sup>4</sup> Contributions to investments for a specific new means of transmission may be provided to a broadcaster for a maximum of ten years.

#### Art. 51<sup>38</sup> Nature and measurement of the contributions (Art. 58 RTVA)

<sup>1</sup> On application, contributions amounting to 75% of its operating costs may be arranged for a broadcaster for:

- a. investments or depreciations of investments in a transmitter network which it has itself constructed or operates;

<sup>37</sup> Amended by No 1 of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>38</sup> Amended by No 1 of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).



- b. financial participation in the investments in a transmitter network which a third party constructs or operates;
- c. depreciations transferred to it by a third party which constructs or operates a transmitter network.

<sup>2</sup> If OFCOM's available credit is not sufficient to meet the claims of all broadcasters entitled to a contribution, the contributions to all broadcasters will be reduced by the same proportion in the year concerned.

<sup>3</sup> A decision to make contributions to depreciations generally applies over five years. The contributions are paid out in annual instalments in accordance with the depreciation rates recognised in the decision, as long as the conditions specified in Article 50 paras. 2-4 are met and the transmission equipment is operated in accordance with the intended purpose of the support.

<sup>4</sup> Decisions to make contributions to investments take account of the timetable and implementation of the construction of the transmitter network.

<sup>5</sup> The Subsidies Act of 5 October 1990<sup>39</sup> applies.

<sup>1</sup> A contribution towards the amortisation of investment in a transmitter network shall be made on application from the broadcaster.

<sup>2</sup> A contribution shall cover half of the broadcaster's amortisation costs for the relevant chargeable investments. If OFCOM's available credit is not sufficient to meet the claims of all broadcasters entitled to a contribution, all broadcasters' contributions shall be reduced on a linear basis in the year concerned.

<sup>3</sup> A contribution decision shall cover five years. The contributions shall be paid out in annual instalments in accordance with the amortisation rates recognised in the decision, as long as the conditions in Article 50 paragraphs 2-4 of this ordinance are met and the broadcaster's transmission equipment is operated in accordance with the intended purpose of the support.

<sup>4</sup> On expiry of the contribution period in paragraph 3, the support for a transmitter network may be extended on application by the broadcaster.

### Chapter 3: Broadcasting by Wire

#### Art. 52 Programme services of foreign broadcasters

(Art. 59 para. 2 RTVA)

<sup>1</sup> Foreign programme services that are to be broadcast by wire in accordance with Article 59 paragraph 2 RTVA may be such programme services that are transmitted in a Swiss national language and which make a special contribution to fulfilling the performance mandate provided for by the Federal Constitution, in particular in that they:

- a. report in depth on social, political, economic or cultural phenomena within the framework of extensive editorial formats;
  - b. give considerable space to artistic film productions;
  - c. make special editorial contributions to the education of the public;
  - d. broadcast special editorial productions for young people, old people or people with sensory disabilities; or
  - e. regularly broadcast Swiss productions or regularly deal with Swiss topics.
- <sup>2</sup> The foreign programme services in accordance with paragraph 1 as well as the area in which they must be broadcast by wire are listed in the Annex of this Ordinance.

**Art. 53** Maximum number of access-entitled programme services

(Art. 59 para. 3 and 60 para. 2 RTVA)

The maximum number of programme services to be broadcast by wire free of charge within a specific area in accordance with Articles 59 and 60 RTVA is:

- a. for the analogue broadcasting of radio programme services: 25;
- b. for the digital broadcasting of radio programme services: 50;
- c. for the analogue broadcasting of television programme services: 25;
- d. for the digital broadcasting of television programme services: 30.

**Art. 54** Telecommunications service providers obliged to broadcast

(Art. 59 para. 4 RTVA)

<sup>1</sup> Telecommunications service providers that broadcast programme services and which reach at least 100 households are subject to the broadcasting obligation.

<sup>1bis</sup> DETEC may revoke the obligation relating to the analogue broadcasting of television programme services under Articles 59 and 60 RTVA provided such services are broadcast digitally and are received digitally by an overwhelming majority of the public. It may do so for all programme services or for specific services and for the entire country or for specific regions.<sup>40</sup>

<sup>2</sup> On application, OFCOM may release a telecommunications service provider from the broadcasting obligation where:

- a. the transmission of all programme services cannot be expected of it for capacity reasons; or
- b. restricting transmission to the coverage area in the case of a regional television programme service with a performance mandate and fee-splitting according to Article 38 para. 1 letter a RTVA is not possible for technical reasons.<sup>41</sup>

<sup>40</sup> Amended by No I of the Ordinance of 15 June 2012, in force since 1 Aug. 2012 (AS 2012 3667).

<sup>41</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>3</sup> A telecommunications service provider which is released from the broadcasting obligation on the basis of paragraph 2 letter b shall inform OFCOM annually of the state of the technology.<sup>42</sup>

**Art. 55** Channel occupancy  
(Art. 62 RTVA)

The Department shall regulate which programme services have a claim to preferred channel occupancy for broadcasting by wire.

## **Chapter 4: Technical Processing**

**Art. 56** Open interfaces and technical configuration  
(Art. 64 RTVA)

<sup>1</sup> If the telecommunications service provider uses a different technical processing procedure from the broadcaster, the programme services and the coupled services must be transmitted in such a way that the audience is able to use them in a quality corresponding to the requirements of Article 45.

<sup>2</sup> If international standards exist for equipment or services that are used to process programme services or with regard to open interfaces, DETEC may declare these standards binding if this is necessary to safeguard diversity of opinion.

<sup>3</sup> The telecommunications service provider must allow the broadcaster to manage its customer relations. Telecommunications service providers and broadcasters shall set down the technical and commercial implementation of customer relations management in an agreement. DETEC may issue technical and administrative requirements.

<sup>4</sup> The telecommunications service provider may not use data that it has acquired in connection with the implementation of paragraph 3 for other purposes and in particular may not forward it to other business units, subsidiary companies, partnership undertakings and third parties.

## **Title 4: Reception of Programme Services**

**Art. 57** Devices suitable for reception  
(Art. 68 para. 1 RTVA)

The following are subject to the obligation to notify and to pay fees for the reception of radio or television programme services:

- a. devices which are intended for programme service reception or which include specific components intended exclusively for reception;

<sup>42</sup> Inserted by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

- b. multifunctional devices if they are equivalent in terms of variety of receivable programme services and reception quality to the devices in terms of letter a.

**Art. 58** Private, professional and commercial reception

(Art. 70 para. 2 RTVA)

<sup>1</sup> Private reception is the reception of radio or television programme services by the notifying person, persons living in the same household and their guests.

<sup>2</sup> Professional reception is the reception of radio or television programme services in undertakings for the purposes of entertainment or information of personnel.

<sup>3</sup> Commercial reception is the reception of radio or television programme services for the purpose of the entertainment or information of customers and other external persons. A distinction is made between three categories:

- a. Category I: 1–10 receivers;
- b. Category II: 11–50 receivers;
- c. Category III: more than 51 receivers.

**Art. 59** Amount of the reception fees

(Art. 70 RTVA)

<sup>1</sup> The reception fees for private reception per month and excluding value-added tax are:

	CHF
a. for radio reception	13.75
b. for television reception	23.84

<sup>2</sup> The reception fees for professional reception per month and excluding value-added tax are:

	CHF
a. for radio reception	18.20
b. for television reception	31.59

<sup>3</sup> The reception fees for commercial reception per month and excluding value-added tax (in francs) are:

	Category I	Category II	Category III
a. for radio reception	18.20	30.32	41.86
b. for television reception	31.59	52.63	72.66

**Art. 60** Obligation to notify

(Art. 68 para. 3 RTVA)

<sup>1</sup> Changes in notifiable circumstances must be reported in writing to the fee collection agency.

<sup>2</sup> In the case of professional or commercial reception, notification must take place for each branch office.

**Art. 60a<sup>43</sup>** Billing of reception fees

(Art. 68 para. 6 RTVA)

<sup>1</sup> The fee collection agency shall bill reception fees on an annual basis. The person liable to pay the fee may ask to be billed on a quarterly basis.

<sup>2</sup> The fee collection agency shall stagger the billing periods for the annual bill.

<sup>3</sup> It shall issue the bills at the earliest at the following times:

- a. in the case of annual bills: in the second month of the billing period;
- b. in the case of quarterly bills: in the first month of the billing period.

**Art. 61** Due date, late demands, reimbursement and prescription

(Art. 68 para. 4 and 5 RTVA)

<sup>1</sup> The fee is due:

- a. in the case of annual bills: on the first day of the third month after the bill is issued;
- b. in the case of quarterly bills: on the first day of the second month after the bill is issued.<sup>44</sup>

<sup>2</sup> If the fee collection agency has not billed the reception fee or billed it incorrectly or calculated it wrongly, it shall demand the amount not received or make a reimbursement.

<sup>3</sup> The prescriptive period for reception fees is five years from the due date of the fee.

**Art. 62** Charges for quarterly bills, reminders and debt collection<sup>45</sup>

(Art. 68 para. 1 RTVA)

<sup>1</sup> The fee collection agency may bill the following charges:

	CHF
a. Extra charge for each quarterly bill issued	2.00
b. for a written reminder	5.00
c. for justified debt collection proceedings	20.00
	.46

<sup>43</sup> Inserted by No I of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

<sup>44</sup> Amended by No I of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

<sup>45</sup> Amended by No I of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

<sup>46</sup> Amended by No I of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

<sup>2</sup> The fee collection agency shall inform those obliged to pay these fees of these fees in advance and in writing.

**Art. 63** Exemption from the obligation to pay fees and to notify

(Art. 68 para. 6 RTVA)

The following are exempted from the obligation to pay fees and to notify:

- a. persons domiciled abroad who reside in Switzerland no more than 90 days per calendar year or 90 consecutive days at any time;
- b.<sup>47</sup> residents of care homes who require care corresponding as a minimum to the care requirement level in Article 7a paragraph 3 letter e of the DHA Ordinance of 29 September 1995 on Compulsory Health Insurance Benefits<sup>48</sup>;
- c. federal authorities, for the reception of radio and television programme services in official premises and in meeting rooms;
- d.<sup>49</sup> diplomatic missions, permanent missions or other representations to international organisations, consular posts and institutional beneficiaries under Article 2 paragraph 1 letters a, b, i, j, k, l and m of the Host State Act of 22 June 2007<sup>50</sup> which have concluded a headquarters agreement with the Federal Council
- e.<sup>51</sup> the diplomatic, administrative, technical and service personnel of diplomatic missions, permanent missions or other representations to international organisations and of consular posts run by professional consular officials who hold an accreditation pass of type B, C, D, E, K red, K blue, K violet or O issued by the Federal Department of Foreign Affairs and who do not have Swiss citizenship.

**Art. 64** Exemption on application from the obligation to pay fees

(Art. 68 para. 6 RTVA)

<sup>1</sup> On written application, the fee collection agency shall exempt those entitled to old-age and survivors' insurance (AHV) or invalidity insurance (IV) benefits from the obligation to pay fees if they are in receipt of annual benefits under Article 3 paragraph 1 letter a of the Federal Act of 19 March 1965<sup>52</sup> on Benefits supplementary to the Old Age, Survivors' and Disability Insurance and submit a legally valid decision concerning their right to supplementary benefits.

<sup>47</sup> Amended by No I of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

<sup>48</sup> SR 832.112.31

<sup>49</sup> Amended by Annex No 13 of the Host State Ordinance of 7 Dec. 2007 (SR 192.121)

<sup>50</sup> SR 192.12

<sup>51</sup> Amended by Annex No 13 of the Host State Ordinance of 7 Dec. 2007 (SR 192.121)

<sup>52</sup> [AS 1965 537, 1971 32, 1972 2483 No III, 1974 1589 No II, 1978 391 No II 2, 1985 2017, 1986 699, 1996 2466 Annex No 4, 1997 2952, 2000 2687, 2002 701 No I 6 3371 Annex No 9 3453, 2003 3837 Annex No 4, 2006 979 Art. 2 No 8, AS 2007 6055 Art. 35]. See now the SBA of 6 Oct. 2006 (SR 831.30).

<sup>2</sup> If the application is approved, the obligation to pay fees shall end on the last day of the month in which the application for exemption was submitted.

<sup>3</sup> Anyone submitting an application for supplementary benefits to the competent authority may at the same time make an application for exemption from the fee to the fee collection agency. The fee collection agency shall suspend the procedure until the decision on the application for supplementary benefits has been made.

<sup>4</sup> At regular intervals, the fee collection agency shall check whether the conditions for exemption from the fee still apply.

**Art. 65** Fee collection agency

(Art. 69 para. 1 RTVA)

<sup>1</sup> DETEC shall designate an agency external to the federal administration as the fee collection agency. The agency shall bear the official designation “Swiss Collection Agency for Radio and Television Reception Fees”.

<sup>2</sup> The fee collection agency is responsible for:

- a. processing notifications;
- b. issuing decisions regarding the collection of reception fees and debt collection;
- c. debt collection proceedings against defaulting persons who are obliged to pay fees;
- d. transferring the fee revenue to SRG SSR and OFCOM;
- e. reporting possible violations of the obligation to notify to OFCOM.

<sup>3</sup> The details of the performance mandate and the remuneration of the fee collection agency shall be set down in an agreement which DETEC concludes with the agency.

<sup>4</sup> In addition to the reception fees, the fee collection agency is also authorised to collect copyright royalties for the reception of radio and television programme services on behalf of the authorised collective administration societies. The details are set down in an agreement between the fee collection agency and the collective administration societies.

**Art. 66** Access to data

(Art. 69 para. 1–4 RTVA)

<sup>1</sup> Data processing by the fee collection agency and supervision thereof are based on the provisions of the Federal Act of 19 June 1992 on Data Protection<sup>53</sup> applicable to federal bodies.

<sup>2</sup> The fee collection agency may use data processed in accordance with Article 65 paragraph 2:

- a. for the purposes of the collection of copyright royalties for the reception of radio and television programme services and disclose such data to the authorised collective administration societies; and may
- b. forward such data for the purposes of the collection of fees for wireless terrestrial reception (Art. 71 RTVA) to the competent agency.

<sup>3</sup> The fee collection agency must transfer free of charge to any successor the data necessary for fee collection and make it accessible in good time in electronic form. In particular, it is obliged to provide the successor, for appropriate remuneration, with the essential personnel and organisational support for the continuation of the transferred mandate, and to provide the required technical infrastructure for this. The amount of the remuneration shall be fixed by OFCOM on request.

#### **Art. 67** Accounting and supervision

(Art. 69 para. 5 RTVA)

<sup>1</sup> The fee collection agency shall maintain its own account of the revenue from reception fees and the costs associated with processing notifications and collecting reception fees. Any other activities must be kept separate in the accounts from fee collection.

<sup>2</sup> The fee collection agency must allow OFCOM to inspect free of charge all documents which OFCOM requires as part of its supervisory activity. In particular, this includes the billing accounts.

<sup>3</sup> The annual account concerning reception fees must be submitted to OFCOM for approval.

### **Title 5:**

## **Safeguarding Diversity and Promoting Programme Service Quality**

### **Chapter 1: Access to Public Events**

#### **Art. 68** Scope of the short reporting right with regard to public events

(Art. 72 para. 1 and 2 RTVA)

<sup>1</sup> The right to provide a short report on a public event in Switzerland covers a contribution of three minutes at most. The duration of the short report must be commensurate with the event.

<sup>2</sup> If a public event extends over a maximum of one day and consists of several parts, the claim to the short reporting right does not relate to each part of the event but to its entirety. If a public event extends over more than 24 hours, there is an entitlement to one daily short report.

<sup>3</sup> The short report may be broadcast only after the end of the public event or of the self-contained part of the event.



**Art. 69<sup>54</sup>** Direct access to public events

(Art. 72 para. 3 let. a RTVA)

<sup>1</sup> Third-party broadcasters which have claimed the right to direct access to a public event must register in advance as follows:

- a. for scheduled events: at least 10 days before the start of the event;
- b. for events arranged at short notice and events for which the particular interest of the third-party broadcaster occurs only in the short term due to special circumstances: at the earliest possible time.

<sup>2</sup> The organiser of the public event and the broadcaster with first exploitation or exclusive rights shall decide on access at the earliest possible opportunity and in the case of events that come under paragraph 1 letter a at least 5 days before the start of the event.

<sup>3</sup> Unless contractual agreements already exist, priority shall be given to those third-party broadcasters which guarantee the greatest possible coverage in Switzerland or which, for example, demonstrate a particular interest in reporting the event on the basis of their performance mandate or a close relationship linking the event to their coverage area.

<sup>4</sup> If access is refused, the third-party broadcaster may apply to OFCOM for measures under Article 72 paragraph 4 RTVA. It must submit the application immediately after refusal of access.

<sup>5</sup> The direct access of third-party broadcasters must be exercised in such a way that, if possible, the holding of the event and the exercise of exclusive and first exploitation rights are not adversely affected.

**Art. 70** Signal delivery for short reporting

(Art. 72 para. 3 let. b RTVA)

<sup>1</sup> The organiser of the public event and the broadcaster who holds first exploitation or exclusive rights shall make the signal available to the interested secondary broadcaster without delay on request for the purposes of producing a short report. The request must be made at least 48 hours before the event.

<sup>2</sup> The secondary broadcaster must pay the costs arising for access to the signal. These include the technical and personnel costs as well as compensation for additional costs incurred due to the granting of the short reporting right.

**Art. 71** Free access to events of major importance to society

(Art. 73 para. 1 RTVA)

<sup>1</sup> Free access to an event of major importance to society is guaranteed if in each linguistic region respectively at least 80 per cent of households are able to receive the transmission without additional expenditure.

<sup>54</sup> Amended by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>2</sup> Events of major importance to society must as a rule be made accessible to the public in the form of partial or total live coverage. Deferred partial or total coverage is sufficient if this is in the public interest.

<sup>3</sup> If a broadcaster who holds exclusive rights for the transmission of the event is unable to guarantee free access, it must provide the transmission signal to one or more other broadcasters subject to appropriate conditions.

## **Chapter 2: Promotion of Training, Professional Development and Media Research**

**Art. 72** Training and professional development of programme producers  
(Art. 76 RTVA)

OFCOM shall promote the training and professional development of programme makers primarily through service agreements with a term of several years with institutions which continuously maintain a range of significant training and professional development services in the field of information journalism for radio and television.

**Art. 73** Media research  
(Art. 77 RTVA)

<sup>1</sup> As a rule, at least half of the revenue from the licence fee must be used to support research projects in the radio and television sector.

<sup>2</sup> In particular, support shall be given to scientific research projects whose results provide information on programming, social, economic and technical developments in radio and television and which therefore enable the Administration and industry to respond to these developments.

<sup>3</sup> OFCOM decides on the award of contributions to research projects. The contributions are as a rule awarded on the basis of a public invitation to tender; OFCOM may specify key topics and lay down the maximum proportional contribution that may be made to the imputable costs of a research project.

## **Chapter 3: Foundation for Audience Research**

**Art. 74**  
(Art. 78–81 RTVA)

<sup>1</sup> The Foundation for Audience Research (the Foundation) as well as the undertakings controlled by it must each year submit an annual report and annual accounts to DETEC by the end of April of the following year. The Foundation's regulations shall lay down the content and presentation of the report. The Foundation and the undertakings controlled by it are subject to the obligation to provide information in accordance with Article 17 paragraph 1 RTVA.

<sup>2</sup> The most important results to be published annually by the Foundation in accordance with Article 79 paragraph 1 RTVA shall include at least:

- a. the possibilities of receiving radio and television programme services and the use of these possibilities by the population resident in Switzerland;
- b. the use of licensed and other radio and television programme services which can be received in Switzerland. The usage data must be expressed in penetration, duration of use and market share. The breakdown of usage data into days of the week, programme service groups and socio-demographic characteristics must be undertaken by linguistic region. The data on the licensed radio and television programme services must be shown for their coverage areas.

<sup>3</sup> DETEC shall regulate the details.

<sup>4</sup> The Foundation's regulations must specify which data:

- a. is considered as sufficient for broadcasters and scientific research in accordance with Article 78 paragraph 2 RTVA;
- b. is deemed to be basic data on use in accordance with Article 79 paragraph 2 RTVA and must be provided at prices which cover the costs.

## **Title 6: Independent Complaints Authority for Radio and Television**

### **Art. 75**            Composition (Art. 82 RTVA)

When appointing members to the Independent Complaints Authority, the Federal Council shall ensure appropriate representation of both genders and the different linguistic regions.

### **Art. 76**            Selection and supervision of ombudsman services (Art. 83 para. 1 let. b and 91 RTVA)

The regulations of the Complaints Authority (Art. 85 para. 2 RTVA) shall regulate the details of the election and activity of the three ombudsman services and the supervision thereof.

### **Art. 77**            Ombudsman services' procedural costs (Art. 93 para. 5 RTVA)

<sup>1</sup> The ombudsman services shall be self-financed through billing in accordance with Article 93 paragraph 5 RTVA.

<sup>2</sup> They shall bill the procedural costs to the broadcasters concerned on the basis of time spent.

<sup>3</sup> An hourly rate of CHF 200 applies.

## **Title 7: Administrative Fees**

### **Art. 78 Principle** (Art. 100 RTVA)

<sup>1</sup> The administrative fee charge in accordance with Article 100 RTVA shall be calculated on the basis of time spent.

<sup>2</sup> An hourly rate of CHF 210 applies.<sup>55</sup>

<sup>3</sup> For the determination of the licence fee, an administrative fee shall be charged if the broadcaster causes extraordinary expenditure as a result of its conduct.

<sup>4</sup> For recording the data of a broadcaster which is obliged to notify and for recording changes to notifiable circumstances in terms of Article 2, OFCOM shall charge an administrative fee if the broadcaster causes expenditure which goes beyond mere recording as a result of its conduct.

<sup>5</sup> For processing enquiries, an administrative fee shall be charged if the enquiry causes extraordinary expenditure. OFCOM shall inform the person liable for the fee of the provisional fee in advance.

### **Art. 79 Reduction in the administrative fee** (Art. 100 RTVA)

<sup>1</sup> A reduced hourly rate of CHF 84 applies to the granting, amending or cancelling of a licence for the broadcasting of a radio or television programme service.<sup>56</sup>

<sup>2</sup> The administrative fee in terms of para. 1 may be further reduced and the fee for the other charged-for activities may be reduced for:

- a. broadcasters to which a licence has been awarded for broadcasting an advertising-free programme service;
- b. broadcasters which prove that they have an operating income of less than CHF 1 million. Operating income is deemed to be revenue related to operating activity, in particular advertising and sponsorship revenue as well as contributions and subsidies.

### **Art. 80 Applicability of the General Fees Ordinance** (Art. 100 RTVA)

Otherwise, the provisions of the General Fees Ordinance of 8 September 2004<sup>57</sup> apply.

<sup>55</sup> Amended by No I of the DETEC Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS 2009 5855).

<sup>56</sup> Amended by No I of the DETEC Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS 2009 5855).

<sup>57</sup> SR 172.041.1

**Title 8: Final Provisions****Art. 80<sup>58</sup>** Implementation  
(Art. 104 para. 2)

<sup>1</sup> DETEC shall issue the technical and administrative regulations.

<sup>2</sup> It may enter into international agreements on technical or administrative content which fall within the scope of this Ordinance.

<sup>3</sup> It may represent the Confederation in international bodies.

**Art. 81** Repeal of existing legislation

The Ordinance of 6 October 1997 on Radio and Television<sup>59</sup> is repealed.

**Art. 82<sup>60</sup>** Transitional provision on the due date for annual bills

<sup>1</sup> The fee collection agency shall stagger the introduction of the annual billing system for reception fees over 2011.

<sup>2</sup> Bills covering one to eleven month's fees shall be sent in January 2011. Bills that cover:

- a. one or two month's fees are due for payment on 31 January 2011;
- b. three or four month's fees are due for payment on 1 February 2011;
- c. five or six month's fees are due for payment on 1 March 2011;
- d. seven or eight month's fees are due for payment on 1 April 2011;
- e. nine or ten month's fees are due for payment on 1 May 2011;
- f. eleven month's fees are due for payment on 1 June 2011.

**Art. 83** Commencement  
(Art. 114 para. 2 RTVA)

This Ordinance comes into force on 1 April 2007.

<sup>58</sup> Inserted by No I of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).

<sup>59</sup> [AS 1997 2903, 1999 1845, 2001 1680, 2002 1915 Art. 20 3482, 2003 4789, 2004 4531, 2006 959 4395]

<sup>60</sup> Amended by No I of the Ordinance of 13 Oct. 2010, in force since 1 Jan. 2011 (AS 2010 5219).

*Annex 3*<sup>61</sup>  
(Art. 52 para. 2)

## **List of foreign programme services to be broadcast by wire**

Throughout Switzerland:

- ARTE (digital: entire programme service; analogue from 7 p.m.)
- 3Sat
- TV5
- ARD
- ORF 1
- France 2
- Rai Uno

In the language of the linguistic region concerned:

- Euronews

<sup>61</sup> Amended by No II of the Ordinance of 12 March 2010, in force since 1 April 2010 (AS 2010 965).